

111TH CONGRESS
2D SESSION

S. 3871

To amend chapter 13 of title 28, United States Code, to authorize the designation and assignment of retired justices of the Supreme Court to particular cases in which an active justice is recused.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 13 of title 28, United States Code, to authorize the designation and assignment of retired justices of the Supreme Court to particular cases in which an active justice is recused.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DESIGNATION AND ASSIGNMENT OF RETIRED**
4 **SUPREME COURT JUSTICES.**

5 Section 294 of title 28, United States Code, is
6 amended—

7 (1) in subsection (a), by inserting “(1)” after
8 “(a)”;

1 (2) by adding at the end the following:

2 “(2) Any retired Chief Justice of the United States
3 or any retired Associate Justice of the Supreme Court may
4 be designated and assigned to serve as a justice on the
5 Supreme Court of the United States in a particular case
6 if—

7 “(A) any active justice is recused from that
8 case; and

9 “(B) a majority of active justices vote to des-
10 ignate and assign that retired Chief Justice or Asso-
11 ciate Justice.”; and

12 (3) in subsection (d), by striking “No such des-
13 ignation or assignment shall be made to the Su-
14 preme Court.” and inserting “Except as provided
15 under subsection (a)(2), no designation or assign-
16 ment under this section shall be made to the Su-
17 preme Court.”.

○